

# Senate Amendment 5273

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1 1 Amend House File 2797, as amended, passed, and  
1 2 reprinted by the House, as follows:  
1 3 #1. Page 55, by inserting after line 15, the  
1 4 following:  
1 5 <DIVISION \_\_\_\_  
1 6 ENERGY CONSERVATION  
1 7 Sec. \_\_\_\_ . NEW SECTION. 297A.1 STATE POLICY.  
1 8 The general assembly finds that investment in  
1 9 energy conservation measures by public facilities can  
1 10 reduce the amount of energy consumed by the facilities  
1 11 and produce both immediate and long-term cost savings.  
1 12 It is the policy of this state to encourage school  
1 13 districts, area education agencies, community  
1 14 colleges, public universities, municipalities,  
1 15 counties, and state institutions to invest in facility  
1 16 technology infrastructure upgrades and energy  
1 17 conservation measures that reduce energy consumption,  
1 18 produce a cost savings, or improve the quality of  
1 19 indoor air, or when economically feasible, to build,  
1 20 operate, maintain, or renovate public facilities in a  
1 21 manner which will minimize energy consumption or  
1 22 maximize energy savings. It is additionally the  
1 23 policy of this state to encourage reinvestment of  
1 24 energy savings resulting from energy conservation  
1 25 measures and facility technology infrastructure  
1 26 upgrades into additional and continued energy  
1 27 conservation efforts, including but not limited to  
1 28 school instructional computer hardware, software, and  
1 29 other technology equipment or training needs to  
1 30 maintain or operate technology systems. The  
1 31 department of natural resources, in consultation with  
1 32 the department of education, shall adopt rules  
1 33 pursuant to chapter 17A for the administration of this  
1 34 chapter.  
1 35 Sec. \_\_\_\_ . NEW SECTION. 297A.2 DEFINITIONS.  
1 36 As used in this chapter, unless the context  
1 37 otherwise requires:  
1 38 1. "Energy conservation measure or facility  
1 39 technology infrastructure upgrade" means an employee  
1 40 training program, facility alteration, or equipment to  
1 41 be used in new construction, including an addition to  
1 42 an existing facility, that reduces energy costs and  
1 43 includes, but is not limited to, any of the following:  
1 44 a. Insulation of the facility structure or systems  
1 45 within the facility.  
1 46 b. Storm windows or doors, caulking or weather  
1 47 stripping, multiple-glazed windows or doors, heat=  
1 48 absorbing or heat-reflective glazed and coated window  
1 49 or door systems, additional glazing, reductions in  
1 50 glass area, or other window and door system  
2 1 modifications that reduce energy consumption.  
2 2 c. Automated or computerized energy control  
2 3 systems including related software-required network  
2 4 communication wiring, computer devices, wiring and  
2 5 support services for building maintenance or delivery  
2 6 of energy conservation services. Any cost for support  
2 7 services that will continue beyond the length of the  
2 8 contract shall be identified specifically in the  
2 9 energy performance-based evaluation, including but not  
2 10 limited to continuation of personnel costs. Energy  
2 11 control system technology infrastructure may be used,  
2 12 as applicable, for other public corporation technology  
2 13 needs. Other technology infrastructure improvements  
2 14 may be implemented if the cost is supported by the  
2 15 energy savings generated by other energy conservation  
2 16 measures or facility technology infrastructure  
2 17 upgrades.  
2 18 d. Heating, ventilating, or air conditioning  
2 19 system modifications or replacements.  
2 20 e. Replacement or modification of lighting  
2 21 fixtures to increase the energy efficiency of the  
2 22 lighting system which, at a minimum, shall conform to  
2 23 the applicable state or local building code.  
2 24 f. Energy recovery systems.

2 25 g. Renewable energy systems, such as solar,  
2 26 biomass, and wind.

2 27 h. Devices that reduce water consumption or sewer  
2 28 charges.

2 29 i. Any measure not otherwise defined that produces  
2 30 energy cost savings or British thermal unit  
2 31 reductions.

2 32 An energy conservation measure or facility  
2 33 technology infrastructure upgrade as defined in this  
2 34 subsection shall be outside the scope of routine  
2 35 maintenance and installation of existing equipment.

2 36 2. "Energy cost savings" means a measured  
2 37 reduction in fuel, energy, or operation and  
2 38 maintenance cost savings created from the  
2 39 implementation of one or more energy conservation  
2 40 measures or facility technology infrastructure  
2 41 upgrades when compared with an established baseline  
2 42 for previous fuel, energy, or operation and  
2 43 maintenance costs.

2 44 3. "Energy performance-based contract" means a  
2 45 contract for the recommendation and implementation of  
2 46 energy conservation measures or facility technology  
2 47 infrastructure upgrades which includes, at a minimum,  
2 48 all of the following:

2 49 a. The design and installation of equipment to  
2 50 implement one or more energy conservation measures or  
3 1 facility technology infrastructure upgrades, and, if  
3 2 applicable, operation and maintenance of such measures  
3 3 or upgrades.

3 4 b. The amount of any actual annual energy and  
3 5 operational cost savings. The amount shall be  
3 6 guaranteed in the contract by the qualified provider  
3 7 and verified by a professional engineer or registered  
3 8 architect who is not employed or has contracted with  
3 9 the qualified provider. The verification shall occur  
3 10 using a process established by the department of  
3 11 natural resources.

3 12 4. "Energy performance-based evaluation" means  
3 13 performance of an energy audit, data collection, or  
3 14 other related analyses preliminary to the undertaking  
3 15 of energy conservation measures or facility technology  
3 16 infrastructure upgrades, and maintenance of project  
3 17 monitoring and data collection to verify  
3 18 postinstallation energy consumption and energy-related  
3 19 operating costs. The department of natural resources  
3 20 shall establish performance guidelines that consider  
3 21 federal energy management program guidelines. Any  
3 22 cost for support services for building maintenance or  
3 23 delivery of energy conservation services that will  
3 24 continue beyond the length of an energy  
3 25 performance-based contract shall be identified  
3 26 specifically in the energy performance-based  
3 27 evaluation.

3 28 5. "Maintenance cost savings" means auditable  
3 29 operating expenses eliminated and future capital  
3 30 replacement expenditures avoided as a result of new  
3 31 equipment installed or services performed by the  
3 32 qualified provider including, but not limited to,  
3 33 savings which can be measured by an itemization of the  
3 34 maintenance savings cost between operational savings  
3 35 and personnel savings.

3 36 6. "Public corporation" means a school district as  
3 37 described in chapter 274, an area education agency as  
3 38 described in chapter 273, a community college as  
3 39 defined in chapter 260C, a public university, city,  
3 40 county, or state agency.

3 41 7. "Qualified provider" means a business or person  
3 42 that has been qualified by the department of natural  
3 43 resources. The department of natural resources shall  
3 44 adopt rules pursuant to chapter 17A to establish a  
3 45 qualifications process. The process shall consider  
3 46 accreditation by the national association of energy  
3 47 service companies, certification by the association of  
3 48 energy engineers, or professional licensure as an  
3 49 engineer or registered architect in Iowa. A business  
3 50 or person accredited by the national association of  
4 1 energy service companies shall be qualified in Iowa.

4 2 Sec. \_\_\_\_ NEW SECTION. 297A.3 REQUESTS FOR  
4 3 PROPOSALS EVALUATION.

4 4 1. Prior to entering into an energy  
4 5 performance-based contract as provided in section

4 6 297A.4, a public corporation shall announce a request  
4 7 for proposals. A request for proposals shall be  
4 8 advertised for public bidding and let publicly. The  
4 9 model request for proposals format developed by the  
4 10 department of natural resources shall be made  
4 11 available for use by public corporations. A public  
4 12 corporation shall administer the public bidding and  
4 13 letting, requesting innovative solutions and proposals  
4 14 for energy conservation measures and facility  
4 15 technology infrastructure upgrades. Proposals  
4 16 submitted shall be sealed. If the model request for  
4 17 proposals format is not used, the request for  
4 18 proposals shall include, at a minimum, all of the  
4 19 following:

4 20 a. Name and address of the public corporation.  
4 21 b. Name, address, title, and telephone number of a  
4 22 contact person for the public corporation.  
4 23 c. Notice indicating that the public corporation  
4 24 is requesting qualified providers to propose energy  
4 25 conservation measures and facility technology  
4 26 infrastructure upgrades to be provided pursuant to an  
4 27 energy performance-based contract.  
4 28 d. Date, time, and place where proposals must be  
4 29 received.  
4 30 e. Evaluation criteria for assessing the  
4 31 proposals.  
4 32 f. Any other stipulations and clarifications the  
4 33 public corporation may require.

4 34 2. The public corporation shall evaluate any  
4 35 sealed proposal from a qualified provider. Sealed  
4 36 proposals shall be opened by a designated member or  
4 37 employee of the governing body of the public  
4 38 corporation at a public meeting during which the  
4 39 contents of the proposals shall be announced. Each  
4 40 person submitting a sealed proposal must receive at  
4 41 least ten days' notice of the time and place of the  
4 42 public meeting at which the public corporation  
4 43 proposes to award an energy performance-based  
4 44 contract. The public corporation shall analyze each  
4 45 qualified provider's estimate of the cost of design,  
4 46 engineering, installation, maintenance, repairs, debt  
4 47 service, conversions to a different energy or fuel  
4 48 source, and postinstallation project monitoring, data  
4 49 collection, and reporting. The evaluation shall  
4 50 include a detailed analysis of whether the energy  
5 1 consumed or the operating costs, or both, will be  
5 2 reduced. Selection of the qualified provider shall,  
5 3 through either a request for proposals process or  
5 4 other purchasing method, constitute selection of the  
5 5 best value based on life cycle cost analysis of the  
5 6 component parts and systems to the public corporation.  
5 7 Preference shall be given to proposals that utilize  
5 8 local or Iowa-based financial institutions.  
5 9 Preference may also be given to proposals that  
5 10 minimize a negative impact on school staffing. The  
5 11 public corporation may enter into an energy  
5 12 performance-based contract.

5 13 Sec. \_\_\_\_ NEW SECTION. 297A.4 AWARD OF  
5 14 GUARANTEED ENERGY COST SAVINGS CONTRACT.

5 15 1. A public corporation shall select a qualified  
5 16 provider that best meets the needs of the public  
5 17 corporation based on life cycle cost analysis. After  
5 18 completing its evaluation of the proposals received  
5 19 pursuant to section 297A.3, the public corporation  
5 20 shall provide public notice of the public meeting at  
5 21 which it proposes to award an energy performance-based  
5 22 contract. The public notice shall contain the names  
5 23 of the parties to the proposed contract and the  
5 24 purpose of the contract. The public notice shall be  
5 25 published at least ten days prior to the public  
5 26 meeting. A public corporation may enter into an  
5 27 energy performance-based contract with a qualified  
5 28 provider if it finds, after evaluating the proposal  
5 29 pursuant to section 297A.3, that the total amount the  
5 30 public corporation would spend on the design,  
5 31 implementation, financing, and performance management  
5 32 of the energy conservation measures or facility  
5 33 technology infrastructure upgrades and modernization  
5 34 measures recommended in the proposal would not exceed  
5 35 the amount to be saved in either energy or operational  
5 36 costs, or both, within a twenty-year period from the

5 37 date of installation of such measures or upgrades,  
5 38 based on life-cycle costing calculations, if the  
5 39 recommendations in the proposal are followed. Each  
5 40 individual improvement must pay for itself within the  
5 41 useful life of the equipment, as determined by the  
5 42 American society of heating, refrigeration, and air  
5 43 conditioning engineers.

5 44 2. A public corporation may enter into a financing  
5 45 agreement as provided in sections 473.19, 473.20, and  
5 46 473.20A, for the purchase and installation of energy  
5 47 conservation measures, or facility technology  
5 48 infrastructure upgrades and modernization measures, or  
5 49 may secure financing through a third party for the  
5 50 purchase and installation of energy conservation  
6 1 measures, facility technology infrastructure upgrades,  
6 2 or modernization measures. Energy performance-based  
6 3 contracts may extend beyond the fiscal year in which  
6 4 they become effective, and may be automatically  
6 5 renewed annually for up to twenty years.

6 6 3. A qualified provider shall be responsible for  
6 7 the measurement and verification of the savings  
6 8 generated by the energy conservation measures or  
6 9 facility technology infrastructure upgrades and  
6 10 modernization measures. The process to be used for  
6 11 the measurement and verification shall follow the  
6 12 guidelines of the federal energy management program.  
6 13 A public corporation shall have these savings verified  
6 14 by a qualified independent third party on an annual  
6 15 basis. The verification shall also include an annual  
6 16 reconciliation of the guaranteed energy cost savings  
6 17 for the life of any financing agreement obligations or  
6 18 until the project is repaid from energy savings. The  
6 19 cost of this verification shall be a part of the  
6 20 contract with the qualified provider. The department  
6 21 of natural resources shall establish the  
6 22 qualifications necessary for a business or person to  
6 23 become a qualified independent third party. A  
6 24 business or person accredited by the national  
6 25 association of energy service companies shall be  
6 26 qualified in Iowa.

6 27 4. A selected qualified provider shall provide a  
6 28 one hundred percent performance guarantee bond to the  
6 29 public corporation for the installation and faithful  
6 30 performance of the installed energy conservation  
6 31 measures or facility technology infrastructure  
6 32 upgrades as outlined in the energy performance-based  
6 33 contract.

6 34 5. A public corporation has the right to terminate  
6 35 an energy performance-based contract at any time  
6 36 provided that written notice to the qualified provider  
6 37 is provided at least thirty days prior to termination.  
6 38 All qualified providers shall include clear statements  
6 39 and requirements regarding contract termination as  
6 40 part of the contract documentation. The documentation  
6 41 shall clearly state the options of the public  
6 42 corporation to satisfy the contract early and include  
6 43 all associated costs. The documentation shall also  
6 44 state the rights of a public corporation under a  
6 45 contract for terminating the contract due to  
6 46 nonperformance, for exercising rights pursuant to the  
6 47 performance guarantee bond, and for listing all costs  
6 48 and responsibilities for payment of any remaining debt  
6 49 associated with energy and operational savings  
6 50 projects already implemented. The information and  
7 1 associated costs described in this subsection shall be  
7 2 provided to a public corporation before an energy  
7 3 performance-based contract is approved.

7 4 6. An energy performance-based contract shall  
7 5 include a written guarantee by a qualified provider  
7 6 that the amount of any actual energy and operational  
7 7 savings shall be guaranteed. The amount must also  
7 8 meet or exceed the total annual contract payments,  
7 9 including financing charges, made by the public  
7 10 corporation over the life of the contract. A  
7 11 qualified provider shall reimburse a public  
7 12 corporation for any shortfall of guaranteed energy  
7 13 cost savings projected in the contract. Actual  
7 14 savings documentation shall be reconciled on an annual  
7 15 basis as provided in the contract. Any savings  
7 16 shortfall shall be made whole by the qualified  
7 17 provider within sixty days. Excess documented and

7 18 mutually agreed upon savings may be carried over to  
7 19 future years. A qualified provider shall provide the  
7 20 public corporation with a one hundred percent  
7 21 performance guarantee bond for installation and  
7 22 retrofit projects. A qualified provider shall  
7 23 guarantee the savings for the length of the contract  
7 24 and shall also provide the guaranteed performance  
7 25 bonds on an annual basis renewed each year for the  
7 26 term of the contract. An energy performance-based  
7 27 contract may provide for payments over a period of  
7 28 time, not to exceed twenty years.

7 29 7. Nothing in this chapter shall be construed to  
7 30 prohibit public corporations, school corporations,  
7 31 community colleges, or institutions under the control  
7 32 of the state board of regents from utilizing savings  
7 33 resulting from energy conservation measures, in excess  
7 34 of the amount needed to pay for the measures, for  
7 35 discretionary budget operations including but not  
7 36 limited to school instructional computer hardware,  
7 37 software, technology training, upgrades, or other  
7 38 similar uses.>

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